Polygraph

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Polygraph Examinations by the Department of Defense Personnel

FROM:

Clair E. George
Director, Office of Legislative Liaison

EXTENSION

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TO: (Officer designation, room number, and building)	DATE RECEIVED	DATE FORWARDED	OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
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Washington, D.C. 20505

14 July 1983

Honorable Barry M. Goldwater
Chairman
Select Committee on Intelligence
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing to express to you my grave concern with legislation pending in the Senate which would restrict the use of polygraph examinations by the Department of Defense. The restriction on use of the polygraph contained in Section 1007 of S. 675, the Fiscal Year 1984 Defense Authorization Bill, would impair my ability as Director of Central Intelligence to fulfill my statutory and other legal responsibilities for the protection of intelligence sources and methods.

The Director of Central Intelligence is by statute responsible for the protection of intelligence sources and methods (50 U.S.C. §403(d)(3)). The Director of Central Intelligence is also responsible for ensuring the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information, and products (Executive Order 12333, §1.5(g)) and for ensuring that programs are developed which protect intelligence sources, methods, and analytical procedures (id., §1.5(h)). Finally, the Director of Central Intelligence is responsible for establishing special access controls and standards for sensitive compartmented information (SCI), which consists of extremely sensitive intelligence information (Executive Order 12356, §4.2(a)).

Department of Defense personnel have access to a great deal of intelligence information, including SCI and information relating to intelligence sources and methods, produced by the various elements of the Intelligence Community. As Director of Central Intelligence, I thus have a direct legal and practical interest in the use or non-use of the polygraph as a security method with respect to Department of Defense personnel. Under very carefully delimited and controlled circumstances, polygraph examinations currently may be required of personnel of the Department of Defense who hold positions which involve access to extremely sensitive intelligence information. New restrictions on the use of polygraph examinations with respect to Department of Defense personnel, and on the use of the information derived therefrom, could jeopardize the security of intelligence information, sources, and methods.

I cannot effectively fulfill my statutory and other legal responsibilities for the protection of intelligence sources and methods if Department of Defense personnel, who must have access to intelligence information to perform their duties, are to be specially exempted by statute from security practices applicable to the personnel of other agencies who have equivalent access to such information. For this reason, I strongly oppose Section 1007 of S. 675. I would note that this provision was attached to the Defense Authorization Bill without the benefit of any hearings or substantial discussion in committee. A legislative decision with such a potentially grave impact on the security of our nation's most sensitive secrets deserves much more thorough consideration.

Sincerely,

William J. Casey

cc:

Honorable John G. Tower
Chairman, Committee on Armed Services

Honorable Strom Thurmond
Chairman, Committee on the Judiciary

Honorable Daniel P. Moynihan
Vice Chairman, Select Committee on Intelligence

Honorable Henry M. Jackson
Ranking Minority Member
Committee on Armed Services

Honorable Joseph R. Biden
Ranking Minority Member
Committee on the Judiciary

interest to abide by that treaty even though unratified.

So it is important, I think, for everybody to note, as the Senator from Massachusetts has said, that down the road, if there is some thought among Members of Congress that we can have it every different way and have it both ways on the treaty and on the Scowcroft Commission, that is probably just a basic contradiction.

That is very important.

Some people could care less about SALT II. As I say, I am not sure what the President's own position on it is. But for those who think it is a step in the right direction and at least a framework in which to develop further arms control, adopting this proposal flies right in the face of building on that arms limitation agreement.

Mr. KENNEDY. I know that the Senator from Colorado is also familiar with the Air Force studies which show that in the latter part of the 1980's, with the increased accuracy of Soviet missiles, the survivability of the MX will be marginal at best. There are some who believe that should there be an attack on those fixed silos, that perhaps only one or two of them might survive. That raises the whole question of whether the Congress will be asked at a later time to add billions of dollars for hardening MX missiles silos, or perhaps even to permit the renegotiation of the ABM treaty in order to protect those sites, which would further complicate the possibility for meaningful arms control.

Mr. HART. The Senator is correct on both points. The Air Force studies, and I think all other objective overviews of the issue of putting a new generation of ICBM's in fixed silos, indicate a very high rate of attrition from a first strike attack, down to as little as 5 percent survivability or even less. The literature surrounding the Scowcroft Commission, indeed surrounding all fixed installations for the MX, whether dense pack or widely spaced basing or whatever, strongly suggests the necessity for some defensive capability.

The Scowcroft Commission, itself, leaves open, and the administration's own literature on the subject leaves open the possibility of the need to invest in a very expensive, very costly, problematic and diplomatically thorny defense system, which was barely accepted in the old days and has over the years deteriorated because neither side really believed in it. It just does not make sense.

The Senator is absolutely correct to bring up at this stage in the debate the implication that we are not just buying one system here but we are buying two, both of which are extremely expensive, both of which to a degree are destabilizing, and neither of which, in the age of the eighties and nineties, makes a lot of sense.

Mr. KENNEDY. I thank the Senator for his comments.

Mr. President, the MX is a missile without a mission, and a weapon without a home. Incredibly, the Air Force gave serious consideration to 30 different basing modes for the MX before throwing in the towel and recommending that these new missiles be placed in existing Minuteman silos.

These 30 basing modes show the ingenuity and imagination of our scientific community; but they also demonstrate that after years of study, no one yet knows what to do with this missile.

Here are just some of the alternative basing modes that have failed to pass muster in recent years:

Orbital basing: This would have launched missiles into orbit in time of tension or on warning of attack, and deorbit them later—either to attack the Soviet Union or to return harmlessly to the United States. Not only would this idea violate the Outer Space Treaty, but a false alarm could force us to launch our missile force into orbit and thereby heighten tensions in a crisis.

Shallow underwater missile (SUM): The idea was to attach MX missiles to small submarines that would patrol the U.S. coast. The flaw was that such a system would have been subject to a pindown attack by Soviet ICBM's.

Hydra was a fleet of waterproof MX's that would float aimlessly and unattended in the ocean until they were commanded to launch. Orca was a scheme to anchor MX's on the seabed.

All sorts of ships were considered, either on barges roaming the inland and coastal waterways of the United States, or in international waters on special vessels that would move randomly on the open sea.

Aircraft were considered, too: Amphibious planes that would sit on the sea for long periods of time; wide-bodied jets that would fly continuously; short-takeoff-and-landing or vertical-takeoff-and-landing planes—even dirigibles that would drift in the wind.

Then, stationary land-based schemes were studied: Hard-rock silos, hard tunnels, southside basing in mesas or mountains of the desert Southwest—all were examined and rejected.

Next came the road and rail systems. The Air Force studied commercial railroads and so-called dedicated rail systems. Our strategic planners studied off-road mobile concepts, ground-effect machines, road-mobile, covered-trench, hybrid-trench, mobile front-end systems. They even looked at basing the MX in pools of opaque water. Finally, they proposed "racetrack," a rail mode known as the multiple protective shelter (MPS) system—but it was immediately ridiculed as "mass transit for missiles" and finally collapsed because of its impracticality, its expense, and the extraordinary grassroots opposition to it.

Finally, there was Dense Pack. The Reagan administration had barely escaped from racetrack when it impaled itself on a scheme to put all the MX missiles in a narrow strip of land on a western military reservation, in reliance on the bizarre, untested and incredible idea that exploding Soviet missiles would destroy each other before they could destroy MX. As we all know, dense pack became dunce pack, and has not been heard from since.

In effect, we have gone to the well 30 times and come up empty on each occasion. The decision to place MX missiles in the old Minuteman silos is a confession of defeat, and every Member of the Senate knows it. Usually, it is three strikes and you are out—surely, MX should be out after 30 swings and misses by the Air Force.

Finally, some have argued that we should vote for MX, regardless of its strategic utility, to demonstrate our "national will." But when we put expressions of vague "national resolve" above commonsense in an area as vitally important as the nuclear arms race, then we truly are heading for catastrophe. Let us build national will; but let us build it behind the right weapons systems and the right causes.

The MX is a dangerous and expensive first strike weapon that will weaken deterrence and fuel the nuclear arms race, instead of advancing the cause of arms control. The MX makes no strategic sense whatever. The MX will not suddenly spur the Reagan administration to more flexible negotiating positions, nor will it lead to the eventual construction of Midgetman. I call upon the Senate to end the MX nightmare once and for all, and return to the path of sensible strategic weapons policy and serious arms control negotiations.

Mr. President, I later intend to propose an amendment to separate out the MX missile from the rest of the DOD authorization bill.

I share the concerns of those who feel that we have not had the chance to have a meaningful floor debate on the MX issue. At the same time I believe that we should not hold up the rest of the DOD Authorization Bill to debate the MX.

Mr. TOWER. Mr. President, I think the Senator from Rhode Island has been waiting patiently to offer his amendment.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

AMENDMENT NO. 1501

(Purpose: To delete the provision relating to the use of polygraphs by the Department of Defense)

Mr. CHAFEE. Mr. President, I thank the Senator from Texas. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE), for himself and Mr. LEAHY, proposes an amendment numbered 1501.

Mr. CHAFEE. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 131, beginning with line 8, strike out all down through line 16 on page 133, and substitute in lieu thereof the following:

SEC. 1007. (a) The Secretary of Defense may not, before April 15, 1984, use, enforce, issue, implement, or otherwise rely on any rule, regulation, directive, policy, decision, or order that would permit the use of polygraph examinations in the case of civilian employees of the Department of Defense or members of the Armed Forces in any manner or to any extent greater than was permitted under rules, regulations, directives, policies, decisions, or orders of the Department of Defense in effect on August 5, 1982.

(b) The restrictions prescribed in subsection (a) with respect to the use of polygraph examinations in the Department of Defense shall not apply to the National Security Agency of the Department of Defense.

(c) Prior to April 15, 1984, the Senate Select Committee on Intelligence and the Committee on Armed Services shall hold hearings on the use of polygraphs in the Department of Defense.

Mr. CHAFEE. Mr. President, this amendment, which I offer on behalf of myself and Senator LEAHY amends section 1007 of S. 675—the Omnibus Defense Authorization Act of 1984. This section deals with the use of polygraph examinations in the Department of Defense. Some of my colleagues and I felt that the original language in this section was not given adequate consideration. There were no hearings by any of the appropriate committees. Not the Intelligence Committee nor Judiciary nor Armed Services.

Mr. President, during the last 3 days, Senators LEAHY, JACKSON, MOYNIHAN, KENNEDY, BINGAMAN, and I have met. We have reached a compromise that will protect classified information at the Department of Defense while at the same time protecting the rights of individuals.

What this amendment seeks to achieve is to place a moratorium on the implementation of the so-called Carlucci guidelines, which were issued August 6, 1982, and become effective August 15, 1982. This moratorium, however, does have a sunset provision wherein these guidelines may be implemented after April 15, 1984, should legislation not be passed precluding further implementation of these guidelines.

The purpose of this moratorium is to allow for hearings looking into implementation of guidelines presently being drafted, and to insure that there will be no abuse of this security tool.

These hearings will help all of us understand a bit more about polygraphs. The CIA feels that the polygraph has been a tool of unique utility in counterintelligence. NSA supports their use. But lately there has been a lot of confusion about the new procedures, specifically what types of polygraph examinations are given and under what circumstances. We need to know these and other facts before considering any legislation.

Certainly, our committee should learn what kind of unauthorized disclosures of classified information necessitate expanded use of polygraph examinations at the Department of Defense; if in fact there is an expanded use. We should know how many unauthorized disclosures there are and the nature and extent of the damage to our national security. And we should also find out the views of not only the Department of Defense, but also NSA and CIA, who have great experience with polygraphs, regarding their accuracy and reliability.

Finally, this compromise language exempts the National Security Agency of the Department of Defense from any restrictions prescribed in subsection (a) of this compromise amendment.

Mr. President, Senator LEAHY, who serves with me on the Intelligence Committee, shares my concern about section 1007 of S. 675, although for somewhat different reasons. I am happy to say that he has joined me in offering this amendment to section 1007 of S. 675. I feel that the Chafee/Leahy compromise language solves many of the problems we have had with this section as reported, and it gives the Senate an oppoftunity to address this important issue.

We believe that this is a reasonable compromise, and we are pleased to offer it.

Mr. President, this amendment arises because of the so-called Carlucci orders which were issued in August of last year and which became effective this August. Under the amendment which I have presented, there is a moratorium on the Carlucci order going into effect any time before April 15 of next year. Meanwhile, the amendment provides that there will be time for the Armed Services Committee and the Intelligence Committee of the Senate to conduct hearings on the matter of the polygraph examinations.

I want to say that this amendment is the result of compromise, the result of very helpful discussions which Senators LEAHY, JACKSON, MOYNIHAN, KENNEDY, BINGAMAN, and I have had. We have reached this point after giving due consideration to the security needs of the country, at the same time balancing them against the protection of the rights of individuals.

Mr. President, this legislation does not apply in any way to the National Security Agency. They can proceed under the Carlucci or any other orders they wish. There is no moratorium applied to them.

I think this is a good compromise and I assure those present, to the extent that I have anything to do with it and the Intelligence Committee, that we will conduct hearings as soon as reasonably possible on the use of the polygraph examinations.

Mr. MOYNIHAN. Mr. President, I join with the Senator from Rhode Island in supporting this measure and ask to be made a cosponsor.

Mr. CHAFEE. I thank the Senator and I ask unanimous consent that that be permitted, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, first as vice chairman of the Select Committee on Intelligence, I wish to affirm the intention of the committee—Senators CHAFEE, LEAHY, JACKSON, and I have discussed it—to hold the hearings that will be required on our part. I am sure the distinguished chairman of the Committee on Armed Services will do the same.

I make the point, and I think it is important to state, that the Senator from Washington is concerned about the extent of the Carlucci order and subsequent directives and proposals and the fact that the Congress was not in any way involved in formulating them led to his amendment. The second thing I wish to point out, just to be especially clear to those to whom it might be of interest, is that the National Security Agency is exempted from the moratorium and that concerns that might have arisen on that score are addressed in this matter and it seems to us a good resolution. It means work to be done, but it is the proper work of the Congress.

I thank the Chair.

Mr. JACKSON. Mr. President, I shall be very brief.

Mr. President, this amendment concerns the provisions, adopted by the committee at my suggestion, dealing with use of polygraph examinations in the Department of Defense (DOD). DOD has made limited use of such exams for a number of years, and the provision reported by the committee would not prohibit that use. Certainly, the purpose of this provision was not to hamper the ability of DOD to protect our national security information. I would be the last person to endorse such a measure. But the committee provision does reflect concern about a trend developing in DOD—and in the society at large—that could result in overreliance on a machine and process which is recognized as inherently unreliable and of limited utility.

This trend can best be seen by briefly reviewing the recent historical evolution of polygraph regulations and directives in the Department of Defense.

Since at least 1965, polygraph use in the Department of Defense has been governed by a separate DOD directive. (DOD Directive 5210.48.) The current version's basic date is October 6, 1975, with an amendment dated January 14, 1977. Key principles embodied in that directive include: First, that "the polygraph shall be employed only as an aid to support other investigative techniques;" second, that a polygraph could not be conducted "unless the

person * * * voluntarily consents in writing," third, that "adverse action shall not be taken against a person for refusal to take a polygraph examination;" and fourth, that "any final administrative or judicial determinations * * * shall not be based solely on the results of * * * the polygraph." These principles applied throughout the Department of Defense, even, Mr. President, at the National Security Agency (NSA), where they were embodied in that agency's own polygraph directives. (NSA/CSS Reg. No. 122-3, July 26, 1977.)

Now, Mr. President, those principles remained in place until August of last year when an erosion process began to develop. First, on August 6, 1982, the then Deputy Secretary of Defense authorized procedures within DOD which specifically diluted the protection heretofore afforded individuals who refused to take polygraph exams. By memorandum he promulgated procedures that permit denying incumbent DOD employees—military and civilian—access to certain classified information solely for declining to submit to a polygraph exam. This would not be an exam conducted because of any suspicion about an individual. These exams were to be part of a program to aperiodically recertify the trustworthiness of these DOD employees. This fundamental change—affecting a substantial number of people—was made quietly without, to the best of my knowledge, even any notice to the Congress.

Second, during the fall and winter of 1982-83 the Department was considering possible changes to its polygraph directive which would expand polygraph use. Under the changes, mandatory polygraphs could be used as a precondition to access to certain sensitive information or as a precondition to certain assignments. And as provided for by the August 6, 1982, memorandum, polygraphs could be used as part of an aperiodic security reinvestigation program for certain individuals, with access to sensitive information able to be cut off solely for refusal to take the polygraph. According to the Assistant Secretary of Defense (Public Affairs) the proposed directive changes would result in "a quadrupling of the (current) testing, and will involve almost 60,000 people." Initial drafts of the new directive also reportedly made other changes to polygraph procedures. Two subcommittees in the House commented extensively on these drafts and the proposal is now being recoordinated in DOD.

Third, on March 11, 1983, the White House issued National Security Decision Directive (NSDD) No. 84. That NSDD, which applies to all executive branch agencies which originate or handle classified information, requires DOD internal procedures that permit mandatory polygraph exams during leak investigations. These procedures must permit "appropriate adverse consequences" following an employee's refusal to take an exam. The meaning of "appropriate adverse consequences" was left open, presumably to the discretion of the heads of executive agencies. This NSDD has not yet been reflected in DOD directives, except by NSA.

Now, Mr. President, that is the history of these regulations that brought me to offer this provision in the committee. Of course, we must make every effort to protect our national security information from individuals who would deal with it cavalierly, or consciously reveal it in violation of law and regulations. But for a number of reasons better protection of our national security information cannot be automatically equated, in my judgment, with greater reliance on the polygraph in DOD. These reasons counsel careful study before going forward with such expanded reliance.

First, the polygraph is recognized as an inherently unreliable instrument; its results are not admissible in the Federal and most State courts. In one study, nearly 50 percent of the truthful individuals were erroneously classified as deceptive. Assuming even the most optimistic accuracy figures for polygraph examinations—90 to 95 percent—countless truthful individuals could be unjustly affected by expanded use of the polygraph in DOD.

Second, wider use of this unreliable instrument, especially its application to military personnel ordered to billets covered by polygraph prescreening requirements, or subjected to it by a politically generated leak investigation, could destroy any number of careers, as well as the general morale of these and other Government employees. Some DOD officials may believe that revocation of access to certain sensitive classified information for failure of or refusal to take a polygraph really is not an "adverse action." That seems to be a rather narrow view of the impact that such an action can have on an individual's career, especially in the national security area.

Third, even executive branch proponents of greater use of the polygraph recognize these limitations. However, they appear to value its intimidation effect. The report which is the basis for NSDD No. 84 concludes that "the polygraph can be an effective tool in eliciting confessions." This seems little more than a paraphrase of the comments attributable to President Nixon, who reportedly said:

Listen, I don't know anything about polygraphs, and I don't know how accurate they are, but I do know that they'll scare the hell out of people.

Fourth, especially under the leak investigation procedures, there is a clear potential for abuse of the polygraph. For example, it is not clear that junior military officers or DOD employees caught up in a leak investigation would be treated the same as high-level officials, both in terms of the requirement to submit to a polygraph exam and the manner in which the exam is conducted.

Now, Mr. President, since the committee reported this provision several of my colleagues have expressed concern about its potential impact on certain personnel security programs in effect in the National Security Agency. Concern also was expressed about the permanent effect of at least a portion of the provision. After considering them, I have decided to accommodate these concerns. Therefore, I agree with this amendment—which is the result of the work of Senators MOYNIHAN, KENNEDY, CHAFEE, BINGAMAN, and LEAHY—to the committee provision; the key provisions of the amendment would do the following:

It would freeze the terms of DOD polygraph regulations to those in effect on August 5, 1982—that is, before the August 6, 1982, memorandum procedures and NSDD No. 84. This freeze would remain in effect until April 15, 1984.

The National Security Agency would be exempt from this freeze.

The Armed Services Committee and Intelligence Committee of the Senate would be required to hold hearings on the subject of polygraph use in the Department of Defense prior to April 15, 1984.

This framework was essentially the suggestion of the distinguished vice chairman of the Senate Select Committee on Intelligence, Senator MOYNIHAN. The distinguished Senators from Rhode Island and Vermont from the SSCI joined in this proposal with the senior Senator from Massachusetts and the junior Senator from New Mexico. I believe it retains the essential principle of the committee reported provision—to preserve the status quo on certain key DOD policies with respect to polygraph use—while giving special recognition to the case of the National Security Agency. The compromise will give the appropriate committees the time to further review the implications of greater polygraph use in their respective jurisdictions. More specifically, the Armed Services Committee can review polygraph use in the Department of Defense overall, and the Intelligence Committee can focus on the implications for the intelligence aspects of the Department.

Now, Mr. President, to prepare effectively for the hearings required by the amendment, it will be important to have certain categories of information in hand in a timely fashion. One category of information would concern the following:

First, unauthorized disclosures of classified information that necessitate expanded use of polygraph examinations in the Department of Defense, second, the nature and extent of such unauthorized disclosures, and third, the nature and extent of the damage to the national security that has resulted from the unauthorized disclosures, including specific examples of

the damage and the manner in which the damage was determined and measured. A second important category of information would focus on the position of the Department of Defense regarding the accuracy and reliability of polygraph examinations, including:

First, a description of specific studies—including statistical analyses based on such studies—conducted by or for the Department of Defense, or relied upon by the Department, to support the Department's position on the accuracy and reliability of polygraph examinations; and

Second, the Secretary's analysis and explanation of how any potential damage to innocent persons erroneously identified by polygraph examinations as having given false responses or information during the course of polygraph examinations is offset by the potential benefits to the United States of expanded use of polygraph examinations.

Mr. President, I believe my distinguished colleague from Rhode Island agrees with me that these would be important categories of information for purposes of these hearings. I, for one, would expect the Department of Defense to cooperate fully and in timely fashion with any formal or informal requests from the committees or individual Members for such information. I would hope that Chairman TOWER would agree to a joint letter formally asking Secretary Weinberger for information such as that discussed above on behalf of the Armed Services Committee. This information will be invaluable and essential for use in the hearings which each committee will have on this issue; we will need it to judge whether the use of the polygraph examination should be expanded in the Department of Defense; and, if so, just how such an expansion should be put into effect.

In summary, Mr. President, this proposal is a reasonable compromise which preserves the essence of the committee's position—for a fixed period—and will give the Congress the opportunity to exercise its oversight responsibilities on this very important question.

● Mr. HUDDLESTON. Mr. President, leaks and other unauthorized disclosures of classified information are a continuing problem for our Government, and especially for the intelligence community. I have expressed concern for some time about the selective leaking of classified information to promote particular policies. This practice risks serious erosion of the credibility of our national security structure, frequently for the sake of immediate political advantage.

This problem has existed under administrations of both parties. However, it has taken on a new and more serious character with the issuance of a recent Presidential directive ordering the expanded use of polygraphs in investigations of unauthorized disclosures of classified information.

Last year the Defense Department drafted new regulations that would have expanded polygraphing in the Defense Department beyond the restrictions imposed by a 1975 directive that limited use of lie detectors to "serious criminal cases, national security investigations, and highly sensitive national security access cases." The scope of the proposed change is not entirely clear, and no hearings have been held in the Senate on the issue.

The Defense Department has a legitimate concern about some narrow counterintelligence and security requirements that do not involve news leaks. There are, as the 1975 directive recognizes, special circumstances that involve access to highly sensitive national security information. This is especially true in the intelligence area.

These limited objectives are far different from the apparent purposes of the Presidential directive of March 11, 1983, which seems to go far beyond the Defense Department's proposal. There is a real danger that the Presidential directive could encourage the wider use of polygraphs in cases of news leaks on a selective basis, depending on whether the leak favored or opposed the administration's policy interests.

These issues require much greater attention by the appropriate committees of the Senate. The Intelligence Committee, for example, has been looking into the counterintelligence and security considerations that might justify some modification in established polygraph policies. The Intelligence Committee has also monitored the performance of the executive branch with respect to unauthorized disclosure of classified intelligence information, especially in cases of compromise of sources and methods.

Before the Congress enacts permanent legislative standards and restrictions for use of the polygraph in circumstances affecting intelligence and counterintelligence activities, the Intelligence Committee should take an indepth look at the facts. I hope the Senate's consideration of section 1007 of the Defense Authorization Act will result in more serious attention by the Intelligence Committee and other appropriate Senate committees to the full range of issues in this area.●

Mr. THURMOND. Mr. President, I rise in support of this amendment offered to S. 675. The language presently in the bill is strongly opposed by the Department of Defense and the intelligence community who were not consulted in preparation of this language.

The use of polygraph examinations is a controversial issue. What is at stake here, however, is restrictions concerning access to very sensitive compartmented information.

The language presently in the bill sets a precedent which in essence empowers military personnel to have access to highly classified information, regardless of the results of, or the refusal to take a polygraph examination. The Department of Defense is developing new guidelines and policies with respect to polygraph examinations. To legislate now would preempt orderly policy development.

Mr. President, I must reiterate the strong opposition of the intelligence community and the Department of Defense to the present language. The amendment being offered, however, has the support of the intelligence community and the Department of Defense. I strongly urge my colleagues to support this amendment. The Armed Services Committee and the Intelligence Committee will conduct thorough hearings on the use of polygraph examinations within the near future.

● Mr. KENNEDY. Mr. President, I want to commend my colleague, Senator JACKSON, for his leadership on this important issue, and the efforts of Senators CHAFEE, LEAHY, MOYNIHAN, BINGAMAN and the chairman of the Armed Services Committee, Senator TOWER, which brought about this agreement. The regulations in question were adopted by the administration without consultation with Congress, and could have a significant impact on the lives of millions of members of the Armed Forces as well as civilians. I believe it is essential that Congress have an opportunity to review the administration's proposals carefully, and hope that the administration will cooperate by providing all the information necessary to assure an informed decision by Congress.●

Mr. TOWER. Mr. President, there has been satisfactory work by both parties. On behalf of the majority side, I am prepared to accept the amendment.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I take just one moment as a cosponsor of this amendment to commend the senior Senator from Washington, the Senator from Rhode Island, and the Senator from New York (Mr. MOYNIHAN), Senator KENNEDY, Senator BINGAMAN, and others who have worked on this issue. I think it is an extremely important one.

I hope that all will understand that by this amendment, which will probably be accepted, we are saying that the Armed Services Committee and the Select Committee on Intelligence will hold detailed and intensive hearings on this issue. Otherwise, I am afraid it is a matter that is going to be dealt with by Executive order and not necessarily in the way that Members of Congress would wish.

This is an area in which we are all agreed. I commend my good friend from Rhode Island (Mr. CHAFEE) for his work on this. I intend to work closely with him and with the distinguished vice chairman (Mr. MOYNIHAN). I know my colleagues on the Armed Services Committee will.

The sooner we are able to do that, the better. The sooner we are able to bring out specific legislation explaining to the Congress the use of polygraph, the better.

I yield back the floor.

Mr. CHAFEE. Mr. President, I thank the distinguished senior Senator from Washington and each of the Senators who worked with us, Senator MOYNIHAN, Senator LEAHY, of course, a cosponsor of this amendment, Senator KENNEDY, and Senator BINGAMAN, and express my appreciation to the chairman of the Armed Services Committee for giving us the lead in this particular matter and trying to arrive at a reasonable conclusion.

If there is nothing further, Mr. President, I move passage of the amendment.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 1501) was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. I move to lay that motion on the table. The motion to lay on the table was agreed to.

AMENDMENT NO. 1502

(Purpose: To terminate the MX program)

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, I send an amendment to the desk and ask the clerk to report.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an amendment numbered 1502:

At the appropriate place in the bill, insert the following:

Sec. . Notwithstanding any other provision of this Act, no funds authorized to be appropriated in this Act shall be obligated or expended for the research, development, test, evaluation, procurement, or deployment of the MX missile."

Mr. TOWER. Mr. President, I submit an amendment that I am obviously not in sympathy with. I am resorting to a procedure for which there is ample precedent to get a matter before the Senate that many Senators are eager to vote on. I think this will give us some idea as to what the disposition of the Senate is on the issue of whether or not the MX should be produced and deployed.

That is all that a vote on this amendment would reveal, because I know that there are varying opinions or shades of agreement and disagreement on the matter of MX and what alternative systems we should go to other than MX.

But I offer this amendment so that the Senate might have the opportunity to express itself.

Mr. President, it has been said by one of the speakers here today that the MX is useless as a deterrent.

That is a rather amazing statement. To say that the MX is useless as a deterrent is to say that our entire land-based system is useless, because the MX is a more modern system, a more accurate and more lethal system than the Minuteman III, which is our most modern deployed missile.

By producing and deploying some MX's, we hold the option of deploying still more. This gives us, I think, substantial bargaining leverage—I do not say bargaining chip. I say leverage. I should use the term "negotiating leverage"—in trying to arrive at agreement that will result in the reduction of the inventories of these destabilising weapons in the arsenals of the United States and the Soviet Union.

I think everybody in this Chamber agrees that that is a desirable objective. I believe that that objective can best be achieved by effecting modernization of our land-based system regardless of that fact that that modernization may not go as far as we would like it to go in terms of survivability. Certainly it gives us a better weapon and the opportunity to consider survivability options down the pike. It could be hardening. It could be closely spaced basing. It could be even an MPS system. But the fact is it does give us options; it does give us bargaining leverage. The administration is absolutely convinced that we must have this as bargaining leverage or our strategic arms reduction negotiation will have very dismal prospects of success indeed.

This is a matter of great convention with our negotiator, General Rowney, who has had long experience negotiating with the Soviet Union, who speaks Russian fluently and who understands the situation, who understands that the Soviets do not regard arms negotiations as seminars in political stability but as tough trading sessions and you must bring something to the table before you have any possible prospects of success. I believe that this system is vital and essential.

Mr. President, at this point I move to table my amendment, and I ask for the yeas and nays.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HART and Mr. TOWER addressed the Chair.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

Mr. HART addressed the Chair.

Mr. BYRD. Unless the Senator is recognized, he may want to make a unanimous-consent request.

Mr. HART. Mr. President, the Senator from Colorado is seeking recognition.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

CALL OF THE ROLL

Mr. HART. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HART. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 10 Leg.]

Abdnor	Hart	Pryor
Baker	Hawkins	Randolph
Bentsen	Helms	Sarbanes
Bingaman	Inouye	Specter
Byrd	Jackson	Stennis
D'Amato	Jepsen	Tower
East	Matsunaga	Wilson
Exon	Moynihan	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

Dodd	Garn	Mattingly
Durenberger	Long	

The PRESIDING OFFICER. A quorum is not present.

Mr. HART. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators.

Mr. BAKER. Mr. President, will the Senator withhold that motion? If he wants the motion I will make the motion. But I would appreciate it if he would extend the traditional leadership courtesy in this case.

Mr. HART. Mr. President, if the majority leader will yield for one point, the traditional courtesy in the Senate is when Senators are able to call up their own amendments, particularly when those amendments are serious. The traditional courtesy of the Senate has been violated already.

I do not enjoy this. But it has been brought upon by the floor leader of this bill.

There are 12 Senators who wish to speak on this amendment who have not had a chance to speak. There has been no dilatoary tactic used on this bill yet by this Senator or anyone opposing the MX.

I yield back to the majority leader.

Mr. BAKER. Mr. President, I can remember when other circumstances prevailed and another majority leader at another time with my assistance called up amendments one after another measuring into the hundreds, and there is simply adequate precedent for what has happened here.

Mr. President, I now move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.